

UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO
ALBUQUERQUE DIVISION

UNITED STATES OF AMERICA,)	CASE NO: 1:16-MJ-02428-BPB-1
)	
Plaintiff,)	CRIMINAL
)	
vs.)	Albuquerque, New Mexico
)	
CHRISTIAN BEGAY,)	Tuesday, May 31, 2016
)	
<u>Defendant.</u>)	(9:58 a.m. to 10:22 a.m.)

PRELIMINARY EXAMINATION / DETENTION HEARING

BEFORE THE HONORABLE WILLIAM P. LYNCH,
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For Plaintiff: ELAINE RAMIREZ, ESQ.
U.S. Attorney's Office
District of New Mexico
P.O. Box 607
Albuquerque, NM 87103

For Defendant: DANIEL J. TALLON, ESQ.
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Court Reporter: Recorded; Liberty - Gila

Clerk: E. Hernandez

U.S. Pretrial/Probation: S. Avila-Toledo

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Albuquerque, New Mexico; Tuesday, May 31, 2016; 9:58 a.m.

(Call to Order)

THE CLERK: *The United States of America versus Christian Begay.*

THE COURT: All right. Would you like to then begin with the prelim?

MR. TALLON: Yes, your Honor, great. Thank you.

THE COURT: Do you have a witness to call, Counsel?

MS. RAMIREZ: Your Honor, the United States would call FBI Special Agent Lance Roundy.

THE COURT: Great. If you could come forward, please, sir.

THE CLERK: Please raise your right hand.

LANCE ROUNDY, GOVERNMENT'S WITNESS, SWORN

THE CLERK: Please have a seat. State your name and spell your last name for the record.

THE WITNESS: Lance Roundy, last name is R-o-u-n-d-y.

MS. RAMIREZ: May it please the Court?

THE COURT: You may proceed, Counsel.

MS. RAMIREZ: Thank you.

DIRECT EXAMINATION

BY MS. RAMIREZ:

Q Sir, where are you employed?

A I'm employed as a Special Agent with the FBI.

Q And how long have you been employed with the FBI?

1 A Oh, since September of 2008.

2 Q And did you attend any particular law enforcement
3 academies or any particular training to prepare you?

4 A Yes, I attended the FBI Academy at Quantico, Virginia.

5 Q All right. And as part of your primary duties with the
6 FBI, do you collaborate with State and local law enforcement
7 agencies?

8 A I do, yes.

9 Q All right. And does that include for crimes that occur in
10 Indian Country?

11 A Yes.

12 Q All right. Can you please tell the Court what occurred on
13 May 21st, 2016?

14 A May 21st, 2016, we learned that a shooting occurred that
15 evening in Shiprock, New Mexico and we also was able to
16 identify witnesses to the shooting and conduct interviews.

17 Q Okay. Let me stop you there real quickly. Shiprock,
18 New Mexico, is that within the exterior boundaries of the
19 Navajo Nation?

20 A Yes, it is.

21 Q All right. And did you actually learn of the shooting the
22 following day on the 22nd?

23 A We did, yes.

24 Q All right. But approximately what time did the shooting
25 occur?

1 A At approximately (indiscernible).

2 Q On the 21st?

3 A Yes.

4 Q All right. And what was relayed to you with regard to
5 what happened on May 21st?

6 A It was relayed to us that on May 21st at approximately
7 10:00 p.m., a blue-colored SUV arrived at the south nonprofit
8 housing area in Shiprock and arrived at the residence of 1036
9 in that housing unit.

10 Q All right. And who were the occupants of that vehicle?

11 A The occupants -- the driver was identified as
12 Mr. Christian Begay and the female was -- the passenger is
13 identified as a female.

14 Q All right. Okay. And did either of the occupants of the
15 vehicle exit the vehicle?

16 A To what we learned, no, they did not.

17 Q All right. What happened?

18 A The driver of the blue SUV engaged in conversation with a
19 female just outside of 1036.

20 Q And what was the nature of the conversation?

21 A The nature of the conversation was the driver of the
22 vehicle identified as Mr. Begay was alleging that another
23 individual owed him money and that he wanted to speak to that
24 individual.

25 Q All right. And you indicated that there was a person

1 outside of the residence that you identified as Jane Doe. Did
2 Jane Doe identify Mr. Begay?

3 A Yes, she did.

4 Q All right. And Mr. Begay asked to speak to someone else
5 at the residence?

6 A That's correct, yes.

7 Q All right. And what happened then?

8 A Based on an interview with Jane Doe, she had mentioned
9 that she engaged in conversation with Mr. Begay. Mr. Begay had
10 told her that an individual owed him money and then based on
11 Ms. -- on Jane Doe's account, Mr. Begay pointed a firearm
12 described as a handgun at her and requested to speak to an
13 individual and at that point, Jane Doe went inside the
14 residence of 1036.

15 Q All right. And the -- what happened after Jane Doe
16 entered the residence?

17 A Another individual, a female, exited the residence and
18 engaged in conversation with the driver of the SUV. That
19 individual also identified the driver to be Mr. Begay.

20 Q All right. And what did Mr. Begay tell Jane Doe 2?

21 A It was the same topic of conversation, that an individual
22 owed him money and Jane Doe 2, the other individual, had
23 offered to pay Mr. Begay the amount alleged to be owed.

24 Q Did he accept that?

25 A No, he did not.

1 Q All right. At some point, did the actual individual owing
2 -- or allegedly owing the money to Mr. Begay present himself?

3 A He did, yes. A short time after, he presented himself to
4 the driver of the vehicle and during an interview, he -- the
5 individual also identified Mr. Begay as the driver of the blue
6 SUV.

7 Q All right. And the victim in this case -- or the person
8 owing the money, I guess, at this point -- did they -- did he
9 engage in conversation with Mr. Begay?

10 A Yes, they did.

11 Q And what was the nature of that conversation?

12 A The nature of the conversation was them arguing back and
13 forth about the amount owed and whether or not the amount -- or
14 whether or not the individual owed Mr. Begay the money.

15 Q All right. And what did Mr. Begay do in response the
16 argument?

17 A In response to the argument, he brandished a handgun and
18 fired off two -- approximately two rounds from that handgun.

19 Q All right. And did those two rounds -- either of those
20 two rounds strike the victim?

21 A Yes.

22 Q And where at?

23 A It hit the individual or the victim in the torso.

24 Q All right. And after the shooting, what did Mr. Begay do?

25 A Based on witnesses, Mr. Begay fled the scene in the blue-

1 colored SUV.

2 Q All right. And was the victim hospitalized?

3 A Yes.

4 Q All right. And was there a discussion with medical staff
5 as to the nature of (indiscernible)?

6 A Yes.

7 Q And what was it?

8 A He had suffered what they determined to be a gunshot wound
9 to the torso. The bullet had missed the vital organs in his
10 torso and from what medical staff told me that the bullet had
11 hit the pelvis bone and caused damage to that area.

12 Q Okay. Did law enforcement conduct a search of the scene
13 of the incident?

14 A Yes. They located approximately two spent 10 mm bullet
15 casings.

16 Q All right. And where were they located?

17 A They were located outside the residence of 1036.

18 Q All right. And was there, I guess, an investigation
19 conducted of the neighbors?

20 A Yes.

21 Q And what did that investigation --

22 A That many of the neighbors -- the nearby neighbors
23 recalled hearing two noises that they described as being
24 gunshots that evening. They also recalled hearing a short time
25 after the gunshots an individual with a male voice screaming on

1 the ground and then they -- several of the neighbors also
2 recalled seeing a blue-colored SUV departing the area.

3 Q All right. And is Mr. Begay an enrolled member of the
4 Navajo Nation?

5 A Yes.

6 Q All right.

7 **MS. RAMIREZ:** I'll pass the witness, your Honor.

8 **THE COURT:** Thank you.

9 **CROSS EXAMINATION**

10 **BY MR. TALLON:**

11 Q Mr. Roundy, how do you spell your last name?

12 A It's R-o-u-n-d-y.

13 Q Did you meet any of the individuals that you referred to,
14 Jane Doe 1, Jane Doe 2 and MG?

15 A Yes, I did.

16 Q Okay. Did you personally interview any of those three
17 people?

18 A I did, all three of them, yes.

19 Q And when you used the phrase that, "Many of the neighbors
20 were contacted concerning whether they'd seen anything" and you
21 indicated a variety of observations made by neighbors, how many
22 neighbors made those observations?

23 A I don't recall off the top of my head right now. If I had
24 to put an approximate number, there was about six individuals
25 that were contacted.

1 Q Okay. Approximately six --

2 A Yes.

3 Q -- would be the equivalent of using the word "many" in
4 this case?

5 A Yes.

6 Q Okay. Was there any light -- special lighting at the
7 location at which this occurred?

8 A Not to my knowledge, no.

9 Q All right. Could you describe the area where this
10 shooting took place?

11 A It's -- like I said, it was south nonprofit housing area
12 in Shiprock. The houses are all constructed approximately
13 anywhere from, I would say, about 40 feet to 60 feet from each
14 other and there was probably approximately about 20 to 25
15 housing units within that area.

16 Q Okay. And in the complaint, it makes reference to a
17 storage unit somehow in the vicinity of the house where this
18 took place -- the house is 1036 and then there appears to be a
19 storage unit near it?

20 A Yeah, the storage unit is actually attached to the
21 structure itself. As you walk out the front door, it would be
22 just to your right. There is a storage unit. I'm not sure
23 about how big it is but there's a storage right there attached
24 to the same unit.

25 Q Okay. But you can't describe how big it is?

1 A I mean, I can give an approximate. I -- no, I haven't had
2 a chance to measure it but it's probably about 10 feet by 15
3 feet.

4 Q Okay. So this unit is located to the right of the front
5 door of House Number 1036. Where was the SUV when the shooting
6 took place?

7 A Based on the witnesses, the SUV had pulled up and it was
8 just in front of the house. So as you'd pull up -- if you were
9 to walk out the front door, it would have been on your left-
10 hand side.

11 Q All right.

12 A And there's a little patio -- concrete patio just out the
13 front door there.

14 Q All right. Would the SUV have been pointing towards that
15 storage unit?

16 A No. It would have been actually parallel with the doors
17 of the storage unit.

18 Q Okay. Which side would be parallel, the driver's or the
19 passenger's side?

20 A Based on the witnesses, they had indicated that it was the
21 driver's side that was parallel to it.

22 Q So from reading the complaint -- and it was written by an
23 Agent Wright (phonetic), correct?

24 A Yes.

25 Q It seems to me that there was a sequence of events where

1 someone spoke to Jane Doe 1. Someone spoke to Jane Doe 2 after
2 Jane Doe 2 came out of the house and then MG actually has an
3 argument with Mr. Begay.

4 A Yes.

5 Q Is that the sequence? So am I correct in understanding
6 that during this sequence that Mr. MG was concealed within the
7 storage unit?

8 A That's what -- based on the interviews, that was what we
9 were told, yes.

10 Q All right. And do you know how much time the discussions
11 took place between the driver of the car and Jane Doe 1 and
12 Jane Doe 2? Do you have any concept in time?

13 A I know that the -- I don't have a specific time but the
14 general time was probably anywhere between a few minutes to
15 maybe five, ten minutes.

16 Q Was MG interviewed about what went on that night or was he
17 capable of being interviewed because of medical reasons?

18 A Yes, I interviewed him and he had indicated that he was
19 capable of understanding the previous events.

20 Q Okay. Did you ask him what he was doing in the storage
21 unit while the SUV was outside?

22 A I did, yes.

23 Q And what was he doing?

24 A He basically said that when he saw the car come up, he
25 didn't want to speak. He knew who it was that was pulling up

1 to his house, didn't want to talk to him. So he inserted
2 himself in the storage to avoid --

3 Q All right.

4 A -- conversation.

5 Q Okay. Did you ask MG whether or not he was armed?

6 A I did not, no.

7 Q You didn't ask him?

8 A I didn't, no.

9 Q Okay. So you say, "I did not, comma, no"? Is that your
10 answer?

11 A Yes, I did not ask him if he was armed.

12 Q Okay. In the complaint, it references that MG exited the
13 storage unit and confronted Begay. That's what's written in
14 the complaint.

15 A Uh-huh.

16 Q Can you tell me about what the nature of that
17 confrontation was by MG?

18 A Based on the interview with MG, it was over the
19 allegations of all the money owed to Mr. Begay. MG also made a
20 reference to the fact that Mr. Begay talking to one of the
21 female Jane Does was a close relative of his and he didn't like
22 the way the conversation went between that person and
23 Mr. Begay.

24 Q Which conversation didn't he like, the one with --

25 A With Jane Doe 2.

1 Q -- Jane Doe 2? Is Jane Doe 2 MG's mother?

2 A Yes.

3 Q Was there any concern -- the -- did MG have any concern
4 about the conversation between Mr. Begay and Jane Doe 1?

5 A Not that he indicated to us, no.

6 Q So is it your understanding from your interview with MG
7 that he was concealed within the storage unit for a period of
8 time of perhaps up to ten minutes but he exited the storage
9 unit to confront, according to the complaint, Mr. Begay and
10 that confrontation was at least in part motivated by the tenor
11 of the conversation between Begay and Jane Doe 2, his mother?

12 A Yes, that's my understanding.

13 Q Was MG angry? Did he tell you whether or not he was angry
14 when he came out of the storage unit?

15 A He said he was angry, yeah, that the -- basically he had
16 mentioned, you know, the tone of the conversation and obviously
17 he was upset over the allegations as well -- or the allegation.

18 Q What was the allegation?

19 A Over the money that he allegedly owed.

20 Q The allegation that he owed -- he was --

21 A Yeah.

22 Q -- he owed \$30?

23 A Yeah.

24 Q And during this entire incident, did MG tell you that
25 Mr. Begay stayed within the car?

1 A He did, yes.

2 Q Did -- and you didn't ask whether or not MG had any sort
3 of weapon of any kind?

4 A I asked him if he had confronted him and made any threats
5 to which Mr. -- or to which MG said he did not.

6 Q Did you ask him specifically about a range of weapons, not
7 just, did you have a gun but did you have any other type of
8 weapon, even a rock? Did you ask him anything like that?

9 A No, I did not.

10 Q Where did this interview with MG take place?

11 A It was in the hospital.

12 Q Was that sometime after his surgery?

13 A It was -- I don't recall any surgery right now but it was
14 the following morning. It would have been May 22nd.

15 Q All right. At about what time?

16 A It was approximately 10:00 a.m.

17 Q All right. Did MG appear to be comprehending your
18 questions when you had that interview with him?

19 A Yes.

20 Q About how long did that interview go on?

21 A Approximately 20 minutes.

22 Q So you didn't end that interview because he was in pain or
23 anything like that? He was capable of conducting a 20-minute
24 interview with you and answering your questions?

25 A We did not end it because of his pain and he finished the

1 interview without any -- indicating any inabilities or -- to
2 continue.

3 Q Okay. In your testimony, you stated that Mr. Begay was
4 driving a blue SUV and that he fled the scene. When was he
5 apprehended?

6 A He was apprehended on the 26th of May.

7 Q And where did that occur?

8 A That occurred at the Sandoval Regional Medical Center in
9 Rio Rancho.

10 Q And how did it come to be that you found Mr. Begay there?

11 A We got --

12 **THE COURT:** What's the relevance of this to probable
13 cause?

14 **MR. TALLON:** Well, I don't know if he suffered some
15 injury in the event on May 21st, your Honor. I find it
16 peculiar that the agents would locate Mr. Begay at a medical
17 center approximately a hundred and fifty or 200 miles from
18 where this took place.

19 **THE COURT:** It doesn't go to probable cause. I'm not
20 going to allow the questioning. Stick to probable cause.

21 **BY MR. TALLON:**

22 Q Were there any identification procedures conducted between
23 May 21 and May 26 that led you to believe that this shooting
24 was committed by Christian Begay?

25 A Yes. We obviously conducted the interviews in which

1 people had identified him as Christian Begay, the shooter. We
2 also coordinated with the Criminal Investigation Office with
3 the Navajo Nation.

4 Q Well, and when I say "identification procedures," were any
5 of these individuals shown photographs to verify that they
6 actually knew who Christian Begay was?

7 A Yes. The Criminal Investigations Office had identified
8 him and knew who he was. We also coordinated with the Navajo
9 Nation Police Department.

10 Q Okay. You're saying that CID identified him and the
11 Navajo Nation helped in coordinating this but did any of the
12 specific witnesses that you mentioned -- I guess the ones I'm
13 most interested in would be MG, Jane Doe 1 and Jane Doe 2.
14 Were they -- how was it determined that they had actually seen
15 this man here shoot MG?

16 A They weren't shown any photographs. They'd indicated that
17 they were close relatives to him.

18 Q Okay. The blood --

19 A So they had previous encounters with him.

20 Q Okay. Previous encounters or close relatives?

21 A Well, they had both. Being close relatives, they had had
22 previous encounters.

23 Q Okay. Just -- and they could be -- by "encounters," they
24 could be positive encounters; is that correct?

25 A Yeah, yeah, uh-huh. That's correct.

1 Q Do you know the nature of the relationship -- the close
2 relative relationship?

3 MS. RAMIREZ: I'm not really sure why that goes to
4 probable cause.

5 THE COURT: Yeah, I'm lost here, Counsel.

6 MR. TALLON: Okay.

7 THE COURT: Let's move on.

8 BY MR. TALLON:

9 Q Are the -- is -- are Mr. MG's -- what is his current
10 medical status?

11 A This morning I was notified that he had been discharged
12 from the hospital and I haven't had a chance to follow up with
13 him on his status at the moment.

14 Q All right. Do you know the date of the discharge?

15 A I do not know.

16 THE COURT: All right. Counsel, what part of
17 probable cause does that go to?

18 MR. TALLON: I'll withdraw the question.

19 THE COURT: Would you explain -- yeah, well, don't
20 just withdraw it. If you can't stick on probable cause, you're
21 done. Okay?

22 MR. TALLON: Okay.

23 THE COURT: So ask him about probable cause or tell
24 me you're done.

25 //

1 **BY MR. TALLON:**

2 Q Was there any firearm located -- no, was the -- was the --
3 you indicated that there were 10 mm casings found at the scene.
4 Was there any identification of a 10 mm firearm to Christian
5 Begay in any way --

6 A Um --

7 Q -- either through finding it or being discussed in
8 relation to him?

9 A To date, no, we have not found a firearm.

10 Q But I think part of my question is, was there any -- not
11 whether you found the firearm but was there any association
12 uncovered during your investigation that associated a 10 mm
13 firearm with Christian Begay as the owner or possessor of that
14 firearm?

15 **THE COURT:** You mean other than eye witness testimony
16 from Jane Doe 1 and Jane Doe 2?

17 **MR. TALLON:** Well, I'm asking specifically about a
18 firearm. That instrument which appears to have been from the
19 evidence collected at the scene a 10 mm firearm.

20 **THE COURT:** I think he testified he -- your client
21 pointed a gun at Jane Doe 1 and Jane Doe 2. So that's what
22 you're asking about?

23 **MR. TALLON:** I have that answer. My additional
24 question is, has the investigation uncovered as a means of
25 identification and linking this event to Christian Begay any

1 information -- not just finding a firearm but any indication,
2 for example, of a blood relative saying, yes, I know Christian
3 has a semiautomatic weapon because he showed it to me last
4 Christmas.

5 **THE COURT:** Okay. That's --

6 **MR. TALLON:** Something like that.

7 **THE COURT:** -- that's discovery. That's not -- I'm
8 not sure what communication difficulty you and I are having,
9 Counsel. If you can't ask a question about probable cause, sit
10 down. We're not here for discovery this morning and you know
11 it. I -- how many times have we had this conversation?

12 **MR. TALLON:** I don't know that I've ever done a
13 hearing in front of you, your Honor.

14 **THE COURT:** You haven't. I don't know who you are
15 but I've done hundreds of these types of -- and we don't do
16 discovery on a probable cause. You ask about probable cause.
17 You're not doing that. Maybe this is what you do but not in
18 this court you don't. If you can't ask about probable cause, I
19 don't want to hear your questions. Do you understand me?

20 **MR. TALLON:** Yes, I do, your Honor.

21 **THE COURT:** Then ask questions that you're allowed to
22 ask today. Okay?

23 **MR. TALLON:** Yes, your Honor.

24 **THE COURT:** Do it.

25 **MR. TALLON:** I have no further questions, your Honor.

1 **THE COURT:** Sit down. Thank you.

2 **MR. TALLON:** You're welcome.

3 **THE COURT:** Do have any --

4 **MR. TALLON:** I'm sorry?

5 **THE COURT:** Do you have argument for me? Do you
6 believe there's not probable cause shown this morning?

7 **MR. TALLON:** No, I have no argument, your Honor.

8 **THE COURT:** Great. Thank you. I'll find probable
9 cause. You may be seated, sir. You may stand down.

10 Is there -- do we -- I think we may have a detention
11 hearing this morning. Is there anything you'd like to tell me
12 on behalf of your client on the issue of detention?

13 **MR. TALLON:** No, your Honor.

14 **THE COURT:** All right. I'm going to find your client
15 is a flight risk and a danger. I'm going to hold him in
16 detention pending further order of the Court.

17 Mr. Tallon, is there anything else this morning?

18 **MR. TALLON:** Not with respect to the case of
19 Christian Begay, your Honor.

20 **THE COURT:** Thank you.

21 **MS. RAMIREZ:** Your Honor, may I be excused?

22 **THE COURT:** You may.

23 **MS. RAMIREZ:** Thank you.

24 **(This proceeding adjourned at 10:22 a.m.)**

25

CERTIFICATION

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.

December 28, 2016

Signed

Dated

TONI HUDSON, TRANSCRIBER